

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Monique Annette Doward,

Civ. No. 24-158 (JWB/LIB)

Plaintiff,

v.

Kathryn Lake,

Defendant.

**ORDER ACCEPTING
REPORT AND
RECOMMENDATION OF
MAGISTRATE JUDGE**

Monique Annette Doward, pro se Plaintiff.

Julie Anne Fleming-Wolfe, Esq., Fleming-Wolfe Law, P.A., counsel for Defendant.

United States Magistrate Judge Leo I. Brisbois issued a Report and Recommendation (“R&R”) on January 30, 2024. (Doc. No. 4.) Plaintiff Monique Annette Doward has filed objections. (Doc. No. 6.) A district court reviews the portions of the R&R to which the parties object de novo and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); D. Minn. LR 72.2(b)(3). When a party fails to file specific objections to an R&R or merely repeats its prior arguments, de novo review is not required. *See Montgomery v. Compass Airlines, LLC*, 98 F. Supp. 3d 1012, 1017 (D. Minn. 2015). The portions of an R&R to which no specific objection is made are reviewed for clear error. *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996). Because Doward is pro se, her objections receive liberal construction. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

Neither of Doward’s objections—that her counterclaim presents a federal question

and that diversity of citizenship is present—have merit, nor do they present specific arguments challenging the R&R’s findings. As either plaintiff or counterclaim plaintiff, Doward is not permitted to remove her own claims to federal court. 28 U.S.C. §§ 1446(a), 1441; *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 107 (1941). She has not filed for removal of the original claims filed by Plaintiff Kathryn Lake and does not otherwise show that those claims could have been “originally” initiated in federal court. *Cagle v. NHC Healthcare-Maryland Heights, LLC*, 78 F.4th 1061, 1065 (8th Cir. 2023). Lastly, Doward herself states that both parties are Minnesota residents, so diversity jurisdiction is lacking. (Doc. No. 6 at 2); 28 U.S.C.S. § 1332(a)(1). There is no subject matter jurisdiction and Doward’s objections are overruled.

ORDER

Based on the R&R of the Magistrate Judge, and on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The January 30, 2024 Report and Recommendation (Doc. No. 4) is **ACCEPTED**;
2. The present action is **DISMISSED WITHOUT PREJUDICE** for improper removal and lack of subject matter jurisdiction; and
3. Plaintiff Monique Annette Doward’s Application to Proceed in District Court without Prepaying Fees or Costs (Doc. No. 3) is **DENIED** as moot.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: April 2, 2024

s/ Jerry W. Blackwell
JERRY W. BLACKWELL
United States District Judge